UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/838,578	04/20/2001	Alexander Aptus	300136300016	9138

4678	7590	04/06/2005

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EXAMINER
TANG, KUO LIANG J

ART UNIT	PAPER NUMBER
2191	

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	**Applicant(s)**
Advisory Action *Before the Filing of an Appeal Brief*	09/838,578	APTUS ET AL.
	Examiner	**Art Unit**	
	Kuo-Liang J Tang	2191	

--*The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

THE REPLY FILED _____ FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because
   (a)☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b)☐ They raise the issue of new matter (see NOTE below);
   (c)☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE:
   The amended Claim 8 raises new issues that would require further consideration and/or search]. The amended Claim 8 has added limitation of Claim 10 and is not deemed to place the application in better form for appeal by material reducing or simplifying the issues for appeal.
   The previous Claim 8 discloses links which can be any link (i.e. XML, HTML, Java, C or C++ link). Now the amended Claim 8 has added the limitation of Claim 10 and change the scope of limitation. Further, Claim 9 is dependent on Claim 8, and does not bear the limitation of Claim 10 before. . (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1,3-5,7-10 and 12-21*.
   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.

13. ☒ Other: <u>See Continuation Sheet</u>.

WEI Y. ZHEN
PRIMARY EXAMINER

Continuation of 13. Other:
In the Amendment, Applicants primarily argue that Chao teaches "generating hyperlink references from the regions of the image map of the diagram to the textual documentation" is improperly made in hindsight.
one, Chao only discloses assiging hyperlinks to areas of a compressed image.
Secondly, Chao is embedding the hyperlinks in source code rather than providing hyperlink references in the diagram that link diagram elements to the corresponding portions of the textual documentation. (See Amendment page 8, 3rd paragraph).

Examiner Answer:
The examiner does not agree Applicants' assertion that Chao's teaching is hindsight.
In response to applicants' argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See In re McLaughlin, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).
Further, Chao does teach the same functionality that the limitations of the Claim. Chao teaches in a manner such as "providing hyperlink references (E.g. see col. 26:38) in the diagram that link diagram elements to the corresponding portions of the textual documentation" (E.g. see col. 26:35-44). It should be noted that the quoted part is an Image map editor, which allow the user to design which portion of the image will output the HTML associate with the image. This perform the same functionality of the claimed limitation.